

BEACH ROAD, BERRY - PLANNING PROPOSAL

Land Situated at Lot 4 DP 834245 No 510 Beach Road, Berry



PRE-GATEWAY REVIEW PLANNING REPORT

Prepared For:
The Hall Family

Prepared By:



8th May 2016

BEACH ROAD, BERRY PLANNING PROPOSAL

PRE-GATEWAY REVIEW REPORT

Michael Brown Planning Strategies has prepared the Pre Gateway Review Planning Report for the Beach Road, Berry Planning Proposal based upon agreed requirements as understood at the time of commissioning.

The report's conclusions and recommendations form an honest appraisal of the opportunities and challenges existing on the Beach Road site at the time of investigation and have been subject to the limited scope and resources available.

The report applies only to the land identified by the Beach Road Planning Proposal and other interpretations should not be made, or application to other projects.

SIGNED:

A handwritten signature in black ink, appearing to read 'M Brown', is written over a faint horizontal line.

Position: Director

Date: 8/05/16

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1 Executive Summary

This Planning Proposal requests that land located at 510 Beach Road, Berry be rezoned from existing RU1 Primary Production and E2 – Environmental Conservation to R5 (Large Lot Residential) and E1 – National Parks and Nature Reserves. This Planning Proposal was formally submitted to Shoalhaven Council for its support and is now submitted for Pre-gateway Review.

Part of the subject land is within the Coomonderry Swamp. Discussions have been held with the National Parks and Wildlife Service (NPWS) regarding acceptance of that part of the land to be incorporated into the Seven Mile Beach National Park (**Annexure B**). Early discussions have indicated an in-principle support to accept management responsibility for offset land at Coomonderry Swamp.

The subject property adjoins land to the east and west that is zoned part R5 – Large Lot Residential, with lots ranging from a minimum of 4000m² to a minimum of 2ha and part E2 – Environmental Conservation. Parts of these adjoining properties that have been dedicated or transferred to the NPWS are zoned E1 – National Parks and Nature Reserves. It is proposed that the subject zoning of the land upon rezoning would have the same zonings.

The purpose of the Planning Proposal is to achieve an optimal landuse plan which balances conservation of the Coomonderry Swamp with rural residential development. Apart from the Coomonderry Swamp, the subject land is relatively free of other environmental constraints.

A number of preliminary technical studies have been undertaken to assess any potential impact of the proposed subdivision on Coomonderry Swamp and water quality in general. Other issues considered relate to bushfire, contamination and loss of agricultural land.

A preliminary subdivision plan has been prepared early in the rezoning process. The purpose of the subdivision plan is to better inform and communicate the future design opportunities and character of the proposed development and to inform the various technical studies that have been undertaken in support of the proposal.

1.1 PREAMBLE

This submission identifies a number of strategic documents which have been prepared by State and local government that are generally applicable to the south coast region and/or Shoalhaven Council itself. It is emphasised that these reports are only summarised as a contextual reference to the development.

A meeting was held at the Department of Planning and Environment offices at Wollongong on 24 July to discuss the draft Planning Proposal (PP). Following that meeting, Council provided pre-lodgement advice. The draft technical studies have been amended based on the advice (**Annexure H**).

1.2 OVERVIEW

This Report represents the formative phase in the development of a Planning Proposal geared toward the rezoning of the lands, described and shown below (**Figure 1**), at Lot 4 DP 713138 No 510 Beach Road, Berry for rural residential purposes.

FIGURE 1 – SUBJECT PROPERTY



1.3 BACKGROUND

The Beach Road Planning Proposal is a rezoning submission originally made to Shoalhaven Council by the Hall Family. At the Council's Development Committee meeting of 18 January 2016, it was resolved that:

- a) Give in principle support for the proposed rezoning of Lot 4 DP 834254, Beach Road, Berry and submit a revised Planning Proposal to the NSW Department of Planning and Environment for Gateway determination, subject to:
 - i) Revision of the proposed minimum lot size to ensure the size of future lots is consistent with adjacent subdivisions and can adequately accommodate on site effluent disposal;
 - ii) Revision of the proposed zoning to ensure appropriate environmental zoning for the swamp and buffer area and other ecologically significant areas on the subject land including, but not limited to, protection of Coomonderry Swamp/SEPP 14 wetland and ecologically significant areas such as the patch of forest known as "Jim's Forest" and Berry Wildlife Corridor.
 - iii) Development to be limited to the north of the ridgeline (i.e. no dwellings south of the ridge) to minimise any potential impact on Coomonderry Swamp, to maintain the integrity of the ridgeline, and to be consistent with the planning outcomes of the adjacent sites

- iv) Resolution of the proposed transfer of land to National Parks and Wildlife Service, and the possible need for a Voluntary Planning Agreement.
- b) Advise the proponent and those who submitted comments of this resolution, noting the opportunity for formal comment later in the process; and
- c) Receive a further report following the Gateway determination, if necessary.

Subsequent to this resolution, the applicant was advised that:

“In addition Council will commission and project manage the independent valuation and analysis of the equity of land dedication as well as an on-site cultural heritage assessment. These would also be at the proponent’s cost”.

The above recommendation and the requirement for a valuation of the land to be dedicated is of concern and has lead directly to this application to the NSW Department of Planning and Environment for a Pre-Gateway Review of the Beach Road, Berry Planning Proposal.

Importantly, the recommendation by the Council is based on adjoining lot sizes. These subdivisions were approved some twenty years ago. Since that time the need for ‘lifestyle’ lots of various sizes to suit different needs has arisen and lot sizes have varied substantially as affordability has been driven by all forms of Government.

The proposed lots that adjoin neighbouring properties reflect the sizes of the lots and in some instances are greater in area. In the centre of the property are smaller properties. The environmental aspects of these lots, and in particular water quality, have been addressed by the consultants in the various technical studies. The lot layout and size of lots were amended a number of times to address the issues raised by these consultants.

We are therefore of the opinion that the recommendation to increase the lot sizes is not based on the consultants expert opinion in addressing these issues, particularly as there has been improved technology in systems to disposal of wastewater. The report submitted with the application to Council clearly addresses the likely impacts on the Coomonderry Swamp and the outcome is that there will be no impact.

There were other issues raised by Council in terms of Jim’s Forest. This stand of vegetation will be preserved within one of the lots. In addition it was stated that the property was affected by the Berry Wildlife Corridor. Upon enquiry, the subject corridor is not located on the land and is located some distance from the property.

The proposed lots over the ridgeline, can have two zones, being R5 and E2, and have building envelopes, the same as adjoining. But it was considered to have one zone.

1.4 PROJECT TIMELINE

To assist in an understanding of the path of the planning proposal to date, the following **Table 1** sets out a summary timeline of local, subregional and metropolitan activities and events that are relevant to the Beach Road Planning Proposal.

TABLE 1 – PROJECT TIMELINE

Timeline/date	Event/Activity
19 March 2015	Meeting held at Council offices to discuss the planning concept to rezone the land

Timeline/date	Event/Activity
July 2015	A draft Planning Proposal lodged with Council.
24 July 2015	Meeting held at the Department of Planning and Environment office at Wollongong to discuss the draft document.
1 September 2015	Letter received from Council advising of the outcomes of the meeting with the Department of Planning and Environment.
October 2015	Planning Proposal formally lodged with Council.
18 January 2016	Council resolved to support Planning Proposal subject to the requirements listed above in Section 1.3.
21 January 2016	Letter from Council outlining the Council resolution.
8 February 2016	Letter from Council outlining resolution and including details of the letter received by Council from the NSW Office of Environment and Heritage (OEH) dated 29 January 2016. The Council letter also included the requirement for an independent valuation of the land to be dedicated to National Parks and Wildlife Services.
22 March 2016	Meeting with Council officers to understand the Council resolution.
30 March 2016	Letter received from Council outlining the outcomes of the meeting of 22 March 2016.

1.5 PURPOSE OF THIS PRE-GATEWAY REVIEW

This Pre-Gateway Review requests that the Department of Planning and Environment and/or the Planning Commission review and support the Beach Road Planning Proposal as submitted to Council.

The proposed amendment to Shoalhaven LEP 2014 has been informed by a subdivision layout and supporting technical studies, which have addressed ecological and biodiversity, water cycle management and contamination.

In accordance with the NSW Department of Planning and Environment's 'Planning Gateway' process, it is acknowledged that this report and request for a Pre Gateway Review is a preliminary step in the making of an amendment to Shoalhaven Local Environmental Plan 2014.

The Beach Road Planning Proposal has been prepared for the purpose of section 55 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and in respect of "A guide to preparing Planning Proposals" issued by the Department of Planning and Environment dated October 2012.

The Beach Road Planning Proposal specifically addresses the following matters in the Guide to preparing Planning Proposals:

1. Objectives and intended outcomes
2. Explanation of provisions
3. Justification
 - Need for the planning proposal
 - Relationship to strategic planning framework
 - Environmental, social and economic impact
 - State and Commonwealth interests
4. Mapping
5. Community consultation

6. Project timeline

1.6 PROJECT TEAM

In preparing this submission, we have relied on relevant inputs from the following as detailed in **Table 2** below:

TABLE 2 – PROJECT TEAM

The Project Team	
Concept Subdivision Plans	JMD Development Consultants – (Annexure A)
Stage 1 Contamination Assessment	SEEC – (Annexure C)
Water Cycle Management Study	SEEC – (Annexure D)
Ecological Constraints	Eco Logical Australia – (Annexure E)
Agricultural Assessment	Eco Logical Australia – (Annexure F)
Bushfire Assessment	Eco Logical Australia – (Annexure G)

2 The Subject Land

2.1 LAND DESCRIPTION

The subject site is described as Lot 4 DP 834245 No 510 Berry Road, Berry (refer to **Figure 1** above). The subject property contains an old farmhouse and structures that formed the former dairy that operated from the land. The dairy has ceased operation; however, cattle graze on the land.

The subject property has an area of 69.7ha and is located between land zoned mainly for large lot residential (R5). When the adjoining lots were rezoned a number of years ago, the subject land was included, but the owner decided that he wanted to maintain the dairy operation. Since that time, the business has ceased and now seeks to have the land rezoned to reflect the zoning of adjoining lands.

3 Metropolitan and Subregional Context

3.1 METROPOLITAN CONTEXT

There is a number of existing State EPIs under the NSW Environmental Planning and Assessment Act 1979 that apply to the Shoalhaven LGA, as detailed below.

3.2 NSW 2021- A PLAN TO MAKE NSW NUMBER ONE

NSW 2021 is the State Government's 10 year plan to guide policy and decision making and in conjunction with the NSW budget, to deliver on community priorities. NSW 2021 drives the government's agenda for change to:

- Restore economic growth.
- Return quality health, transport, education, police, justice and community services, putting customer service at the heart of service design.
- Build infrastructure that drives our economy and improves people's lives.
- Strengthen our local environments devolve decision making and return planning powers to the community.
- Restore accountability and transparency to government and give the community a say in decisions affecting their lives.

3.3 SUBREGIONAL CONTEXT

3.3.1 ILLAWARRA REGIONAL STRATEGY

The current Illawarra Regional Strategy does not currently apply to and cover the Shoalhaven. After lobbying by Council the State Government has agreed for the Shoalhaven to be included within the Illawarra Region for planning purposes. The Illawarra Regional Strategy is currently under review. Planning and Infrastructure released a Discussion Paper on the Illawarra region for the next 20 years in August 2013.

This discussion paper is currently being updated to include the Shoalhaven and will be released for further comment in the future. A number of studies and investigations are also currently occurring to obtain data on the Shoalhaven which can be incorporated into the review process.

3.3.2 SOUTH COAST REGIONAL STRATEGY

The relevant actions provided in the South Coast Regional Strategy (SCRS) that are applicable to the study area include:

Natural Environment:

- *New urban development is to be prohibited by local environmental plans on land assessed as being of high conservation value; and appropriate planning controls are to be incorporated into LEPs to protect biodiversity values on land of lower conservation value.*
- *Local environmental plans will not include further residential or rural – residential zoning in the catchment of coastal lakes and estuaries shown on Map 2 unless it is demonstrated that a neutral or beneficial effect on water quality as measured at the boundary of the proposed new zoning plan can be achieved. In certain circumstances it may be possible to use offsetting actions to ensure improved water quality in the coastal lake or estuary.*
- *Councils will review the suitability of planning controls in existing urban zoned and undeveloped lands in the catchments of nominated coastal lakes and estuaries. Councils will consider the NSW Government – endorsed estuary management and coastal zone management plans and Coastal Lake Sustainability Assessments in undertaking this task.*
- *Future development in the catchments of SEPP 14 wetlands will need to demonstrate no net impact on the hydrology, water quality or ecology of these wetlands.*

Comment:

This Planning Proposal seeks to ensure that most of the proposed rural residential land is within the catchment that flows towards Beach Road and to enable further investigations to be undertaken to determine if there is a neutral or beneficial impact upon the water quality of the Coomonderry Swamp, to permit the efficient subdivision of the land.

Some lots may be on the south facing side of the property and therefore drain in a southerly direction. This will be the subject of further detailed investigation in relation to water quality and potential impacts on the Coomonderry Swamp (**Annexure D**). The landholder seeks to create a subdivision in which the Swamp, which is of high conservation value, will be protected through dedicating this part of the land to the NPWS.

This Planning Proposal aims to reduce any potential impacts, while complying with the sustainability criteria of the SCRS and the associated SEPP14 wetlands criteria.

Natural Hazards:

- *Local environmental plans will zone areas subject to high hazard to reflect the limitations of the land.*

Comment:

Natural hazard assessment for this planning proposal into the Gateway process would relate to include flood risk assessment and bushfire risk assessment.

None of the land is identified as being flood affected. However, there is some overland drainage that needs to be considered at the detailed subdivision stage, but has been taken into account by the preliminary studies (**Annexure D**). In respect of bushfire prone, refer to **Annexure G**. The subject land is predominately free of other natural hazards.

Housing and Settlement:

- *Department of Planning will work with Council's, developers/landowners and relevant State agencies, using the recommendations of the Sensitive Urban Lands Panel to guide finalisation of the development form and environmental management of the sensitive urban lands.*
- *Only urban areas in endorsed strategies will be supported – i.e. Jervis Bay Settlement Strategy.*
- *Any additional development proposal will need to demonstrate that it can satisfy the Sustainability Criteria.*
- *Appropriate housing mix targets to meet the needs of smaller households and an ageing population.*

Comment:

The subject land is not identified as being mapped as Sensitive Urban Land. However, the Coomonderry Swamp has ecological values. This Planning Proposal provides a reasonable outcome in this regard, with rural residential development the subject to further detailed investigation but the catchment of the Swamp is predominantly conserved.

Economic Development and employment growth:

- *LEPs protect and add to employment lands in existing economic centres.*
- *LEPs will ensure that appropriate land will be made available to provide for a range of tourism experiences and forms of tourist accommodation.*

Comment:

This Planning Proposal does not provide any employment land. However, the additional lots to be created will provide additional spending within the various centres and villages of the Shoalhaven LGA.

Rural Landscapes and rural communities:

- *Limited areas for additional rural residential must be located on cleared lands unsuitable for urban or agricultural uses and will only be agreed to by the Department as part of an endorsed growth management strategy or structure plan.*
- *The location of non-compatible uses in core productive agricultural areas will be limited to allow agricultural land to be used for farming.*
- *The scale of development within and adjacent to existing villages and rural towns will support the role of the town in serving communities and preserve its character, scale cultural heritage and social values.*

Comment:

DUAP (now the Department of Planning and Environment) and Council previously agreed to rezone the land with adjoining lands (refer to comments above in Section 5.2.1). The subject land is located between the two properties that Council and the DoPE supported to be rezoned and the proposal is a logical 'infill' development.

Cultural Heritage:

- *Ensure that Aboriginal cultural and community values are considered in the future planning and management of the local government area.*

Comment:

Detailed assessment is yet to be undertaken for the whole of the study area, if required given the past use of the land as a dairy. However, the Gateway Determination will provide details of the types of studies that need to be undertaken to inform the planning process.

3.3.3 SETTLEMENT PLANNING GUIDELINES - SOUTH COAST REGIONAL STRATEGY

The *Settlement Planning Guidelines* were produced by the NSW Department of Planning in August 2007, to support the *South Coast Regional Strategy* by providing guidance for Councils on the identification and delivery, management and monitoring of housing and employment land within the Region over the next 25 years. Specifically, the Guidelines clarify the Department's requirements for councils to:

- Adopt appropriate housing targets including appropriate housing mix;
- Establish a process to identify where and how these targets will be met;
- Adopt appropriate settlement planning principles in the development of new urban areas and the renewal of key towns and centres;
- Implement employment lands principles for industrial and commercial lands to guide land use planning decisions on these lands; and complete annually, the South Coast Land and Housing Monitor which includes the monitoring of overall development, land availability and employment lands monitoring.

Council has adopted the housing targets through the GMS and existing Settlement Strategies and Structure Plans. These documents go towards identifying how the targets will be met. Discussion about the dwelling targets is contained within Section 3 of the GMS. The GMS also contains a number of planning principles for the development of new urban areas. Additional actions resulting from these principles are expected to be contained within Version 2 of the GMS.

Comment

The GMS was addressed in this report.

3.3.4 SENSITIVE URBAN LANDS REVIEW

The South Coast Regional Strategy identified a number of sensitive coastal sites that had been zoned to allow for urban expansion. These sites were subject to review by an expert panel known as the Sensitive Urban Lands Review.

The purposes of the review was to determine the suitability of these sites for urban development, the scale and size of any land release, the priority and timing of any land releases and what alternative land uses may be suitable for each site in the event that urban development was not considered suitable. Within the Shoalhaven LGA 16 sites have been identified.

Comment

The subject site is not identified as one of the 16 sites and not shown on Council's Sensitive Land Map.

3.3.5 SOUTH COAST REGIONAL CONSERVATION PLAN

The South Coast Regional Conservation Plan (RCP) guides natural heritage conservation on lands on the South Coast excluding national parks and State forests. It provides direction to local government on planning and development decision-making so that the biodiversity of the South Coast can be maintained or improved. It seeks to align restoration activities on the South Coast and to ensure that such activities complement future development that will be guided by the State Government's South Coast Planning Strategy. The RCP also guides implementation of the conservation objectives of the South Coast Regional Strategy through:

- Identifying areas of high conservation value that will be protected as the Strategy directs new residential, rural residential, industrial and commercial zonings away from these areas ;
- Verifying important wildlife corridors across the region and providing a consistent approach to their protection and enhancement across local government areas ;
- Identifying coastal lakes and estuaries that the Strategy will protect by ensuring further residential or rural residential zonings are allowed only if a neutral or beneficial effect on water quality can be demonstrated.

The RCP also:

- Identifies how BioBanking and biodiversity certification could be employed within the South Coast as mechanisms to maintain or improve biodiversity;
- Encourages cooperation with the Commonwealth Government with the aim of having NSW planning and assessment processes accredited as addressing matters of national environmental significance;
- Flags that a detailed analysis is required of areas that are zoned for development but which support high conservation values; the analysis will be undertaken by the State Government with the aim of providing landholders with information to assist them in their development planning.

The RCP sets out how local government should:

- Protect lands of validated high conservation value in new local environmental plans (LEPs). A state-wide LEP Practice Note on Environment Protection Zones is to provide direction on what E-zones should apply in which circumstances;
- Identify important wildlife corridors and priority restoration areas in new LEPs and include clauses to protect these features;
- Utilise offset provisions to ensure that any loss of native vegetation from approved developments is offset, thus achieving an overall 'improve or maintain' biodiversity outcome.

The proposal is consistent with this document in that the Coomonderry Swamp will be managed and preserved through a legal agreement, such as a Voluntary Planning Agreement (VPA) of similar agreement/mechanism.

3.3.6 DRAFT ILLAWARRA REGIONAL GROWTH & INFRASTRUCTURE PLAN

This draft Regional Growth and Infrastructure Plan (draft Plan) is the framework used to guide growth between 2014 and 2031.

It fully integrates land use planning with transport and other infrastructure to ensure that growth is matched by infrastructure and services to support local communities. It supports the goals, targets and actions contained in NSW2021, the NSW Government's plan to make NSW number one, and has been prepared in conjunction with the NSW Long Term Transport Master Plan, the Illawarra Regional Transport Plan, and the NSW Government's State Infrastructure Strategy.

The draft Plan for the Illawarra outlines:

- Where new housing should be best located to meet both community and market demands.
- Where development for industry, commercial or retail activity is best located to tap into job opportunities and changing consumer demand.
- The significant regional assets and other key sectors which have the potential to stimulate further economic growth.
- Where the NSW Government's resources are best targeted for new and upgraded infrastructure investments.
- How important environmental values, sensitive landscapes and cultural assets, and important natural resources can be identified and factored into decisions about where growth should, or should not occur.

The subject is not specifically identified within this document. However, it is considered that the proposal is not inconsistent in terms of providing housing, as addressed throughout this report.

3.3.7 COOMONDERRY SWAMP PLAN OF MANAGEMENT

The Coomonderry Swamp Management Plan provides outcomes for the long-term preservation of the ecological community. It is a wetland of 670ha and is of national importance being the largest semi-permanent freshwater swamp on the NSW coast.

The swamp is a gazetted wetland (No. 370) under State Environmental Planning Policy (SEPP) No. 14 and 169 hectares of it (25 per cent) lie within Seven Mile Beach National Park and is 'home' to a number of communities, including the Green and Gold Bell Frog (GGBF).

This is one of the few national parks where GGBFs are known to occur. The Illawarra Regional Landscape and Environment Study (Department of Environment and Planning 1981) categorises the wetland as Ilc-Priority Protection requiring protection against polluting land uses.

Much of the Swamp is privately owned, as is the subject case. The owners have had meetings with NP&WS regarding the future of the land, which has been addressed in this report (refer to **Annexure B**). The needs to be a legal mechanism regarding the 'dedication' of this land to NP&WS and this will be subject to the Gateway Determination.

3.4 LOCAL CONTEXT

3.4.1 SHOALHAVEN 2023 – COMMUNITY STRATEGIC PLAN

The Community Strategic Plan (CSP) sits at the top of Council's planning hierarchy and identifies the community's main priorities and expectations for the future and ways to achieve these goals.

The CSP aligns with the strategies and directions contained within the NSW State Plan (NSW 2021), the Illawarra/South Coast Regional Action Plan and other relevant federal, state and local plans and strategies.

To realise the CSP, 4 key direction areas are established, as follows:

- People;
- Place;
- Prosperity; and
- Leadership

3.4.2 GROWTH MANAGEMENT STRATEGY

Council currently has plans in place for the future growth of many of the towns and villages. These include the Nowra Bomaderry Structure Plan, Jervis Bay Settlement Strategy, Sussex Inlet Settlement Strategy and the Milton Ulladulla Structure Plan. There remain areas within the LGA which are not covered by an existing structure plan or settlement strategy.

The Growth Management Strategy (GMS) provides direction for these remaining settlements and ensures that any housing shortfall arising from the established planning areas is accommodated in appropriate locations throughout the LGA.

The purpose of the GMS is to manage the social and economic implications of future growth in Shoalhaven whilst protecting and preserving the environmental values of the LGA. The core principles of the GMS are:

- Ecologically Sustainable Development (ESD);
- Social Justice Principles; and
- Council's Vision and Mission.

The GMS addresses a number of issues, including how much growth the LGA can sustain. It is predicted that the population will grow from 92,347 in 2006 to 135,165 in the year 2036, an increase of 42,818 in a 30 year period.

3.4.3 CURRENT ZONING

The subject land is currently zoned RU1 – Primary Production and E2 – Environmental Conservation under the provisions of Shoalhaven LEP 2014 (refer to **Figure 2** below). The minimum lots size for subdivision is 40ha.

3.4.3.1 OBJECTIVES

Clause 2.3 of the LEP sets out the objectives of the RU1 zone, which are:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To conserve and maintain productive prime crop and pasture land.
- To conserve and maintain the economic potential of the land within this zone for extractive industries.

Under Clause 2.3 of the LEP, the following landuses are permissible in the RU1 zone:

Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Boat building and repair facilities; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Community facilities; Crematoria; Depots; Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Educational establishments; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Flood mitigation works; Food and drink premises; Group homes; Helipads; Home-based child care; Home businesses; Home industries; Information and education facilities; Intensive livestock agriculture; Intensive plant agriculture; Marinas; Markets; Mooring pens; Moorings; Offensive industries; Open cut mining; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Roads; Roadside stalls; Rural industries; Rural workers' dwellings; Tourist and visitor accommodation; Veterinary hospitals; Water recreation structures; Water supply systems

Prohibited

Hotel or motel accommodation; Pubs; Serviced apartments; Any other development not specified in item 2 or 3

Subdivision is permissible under the LEP vide Clause 4.2, provided it is in accordance with the minimum lot size, discussed below in Section 2.3.3.

The objectives of the E2 zone are:

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.

- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- To protect water quality and the ecological integrity of water supply catchments and other catchments and natural waterways.
- To protect the scenic, ecological, educational and recreational values of wetlands, rainforests, escarpment areas and fauna habitat linkages.
- To conserve and, where appropriate, restore natural vegetation in order to protect the erosion and slippage of steep slopes.

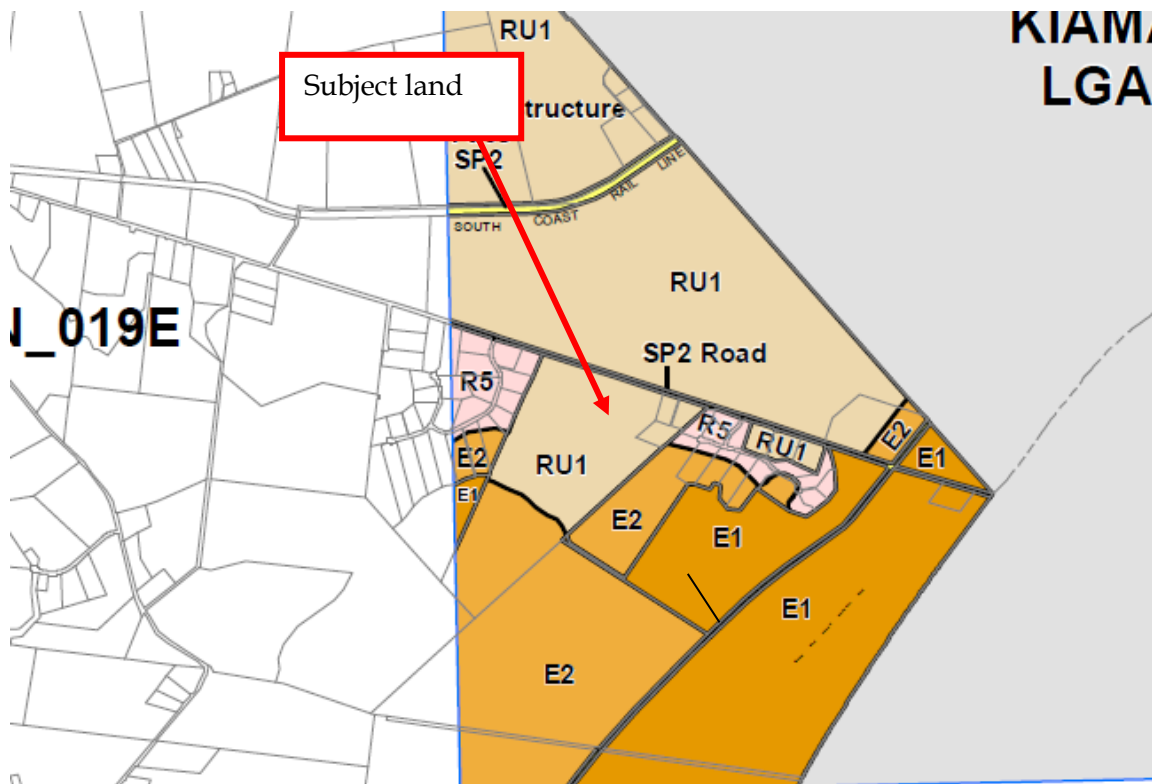
Under Clause 2.3 of the LEP, the following landuses are permissible in the E2 zone:

Aquaculture; Bed and breakfast accommodation; Boat sheds; Dwelling houses; Eco-tourist facilities; Emergency services facilities; Environmental facilities; Environmental protection works; Home businesses; Recreation areas; Research stations; Roads; Sewerage systems; Water recreation structures; Water supply systems

Prohibited

Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

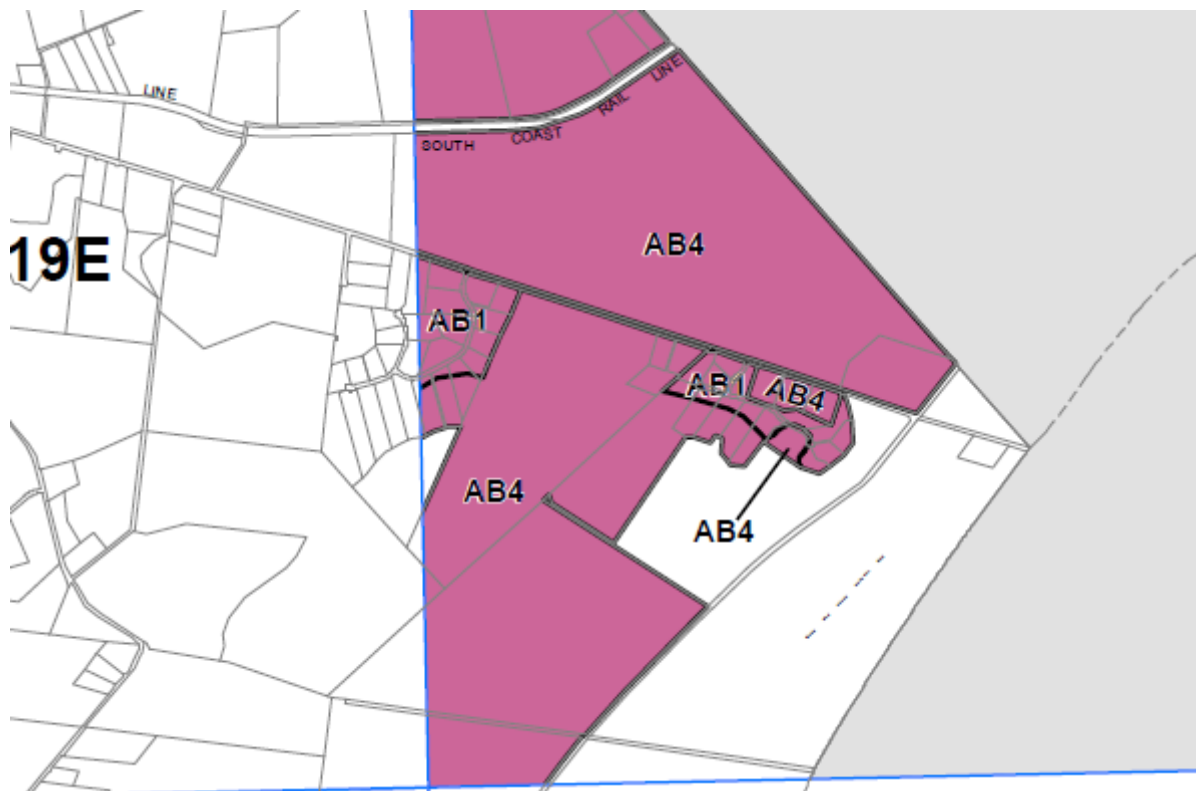
FIGURE 2 – CURRENT ZONE



3.4.4 MINIMUM LOT SIZE

Under the provisions of SLEP 2014 (Clause 4.1) the minimum lot size for subdivision is 40ha, as shown on **Figure 3** below.

FIGURE 3 – CURRENT MINIMUM LOT SIZE



3.4.5 RURAL SUBDIVISION

Clause 4.2 allows a lot to be created for primary production less than the minimum standard of 40ha, but does not allow a dwelling entitlement. It is not proposed to use this provision.

3.4.6 SUBDIVISION OF LAND

Clause 4.2A allows a lot to be created for tourist and visitor accommodation, but only one lot less than 40ha.

3.4.7 HEIGHTS OF BUILDINGS

Under Clause 4.3, the Height of Buildings Map provides for a height of 9.5m. It is not proposed to alter the height requirement, as discussed below in Section 4.1.

3.4.8 DEVELOPMENT NEAR ZONE BOUNDARIES

Clause 5.3 enables Council to approve a use if it adjoins land within another zone. As shown in **Figure 3** above, land either side is zone R5 – Large Lot Residential. It is proposed to rezone the land as R5 and E1 – National Parks and Nature Reserves to be complementary with these lands. The E1 zone reflects the discussions with NPWS to manage the Coomonderry Swamp land.

3.4.9 PRESERVATION OF TREES OR VEGETATION

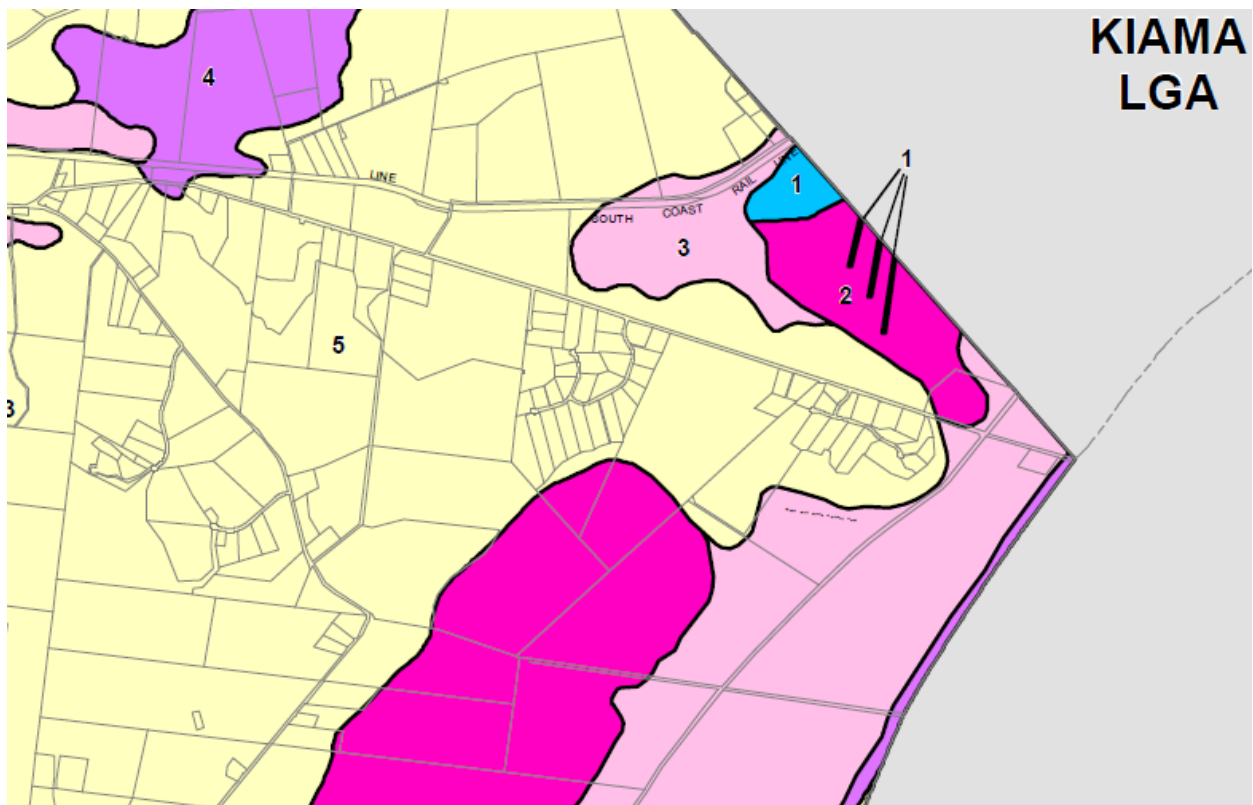
Clause 5.9 relates to the preservation of trees. This clause requires development consent for the removal of any trees or vegetation. It is not proposed to remove any trees as part of this PP.

3.4.10 ACID SULFATE SOILS

Clause 7.1 requires management plans where development may be affected by acid sulfate soils (**Figure 4**). That part of the land to be rezoned to R5 is affected by Class 5 soils. The Coomonderry Swamp land is Class 2. It is unlikely that the development of the R5 land would be impacted to the extent that would restrict subdivision and subsequent construction of dwellings and infrastructure.

In any case there are Australian Standards which would need to be complied with to minimise impacts of acid sulfate soils on infrastructure and buildings.

FIGURE 4 – ACID SULFATE SOILS MAP



3.4.11 FLOOD PLANNING

Clause 7.3 provides requirements for flood affected land. The subject property is not identified as being subject to flooding.

3.4.12 COASTAL RISK PLANNING

Clause 7.4 relates to land that may be affected by coastal risks. The subject land is not identified on this map.

3.4.13 TERRESTRIAL BIODIVERSITY

Clause 7.5 identifies land that may have ecological values. The Coomonderry Swamp land is identified as having ecological values and containing significant vegetation (refer to **Figure 5** below). This part of the land will be zoned E1 – National Parks and Nature Reserves and managed by NPWS as part of the Coomonderry Swamp land.

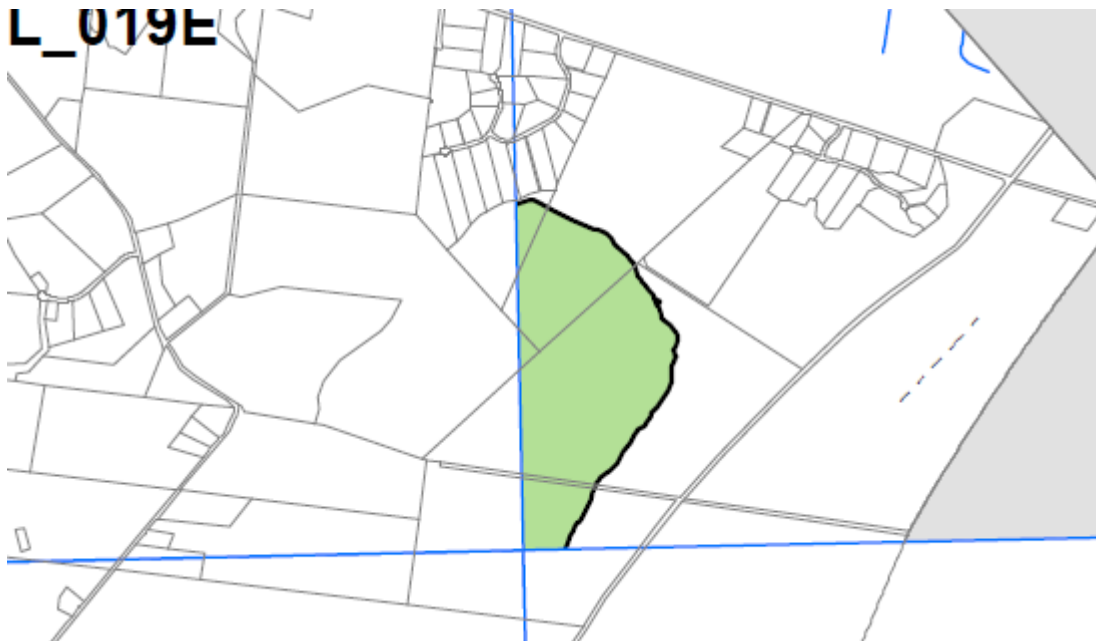
FIGURE 5 – TERRESTRIAL BIODIVERSITY MAP



3.4.14 RIPARIAN LAND AND WATERCOURSES

Clause 7.6 provides matters that the consent authority must consider if land has been identified on the map. That part of the land that forms part of the Coomonderry Swamp land has been identified (refer to **Figure 6**). This land will be managed by NPWS.

FIGURE 6 – RIPARIAN LAND AND WATERCOURSES MAP



3.4.15 DEVELOPMENT CONTROL PLAN 2014

The land is subject to Development Control Plan 2014, which contains principles of general relevance in the context of an urban development scenario for future subdivision of the land.

4 The Beach Road Planning Proposal

The Beach Road Planning Proposal has been prepared in accordance with Section 55 of the EP&A Act and the *'Guide to preparing planning proposals'*, issued by the Department of Planning and Environment.

Section 55 and the *'Guide to preparing planning proposals'* require that the Beach Road Planning Proposal address the following:

- Objectives and intended outcomes
- Explanation of provisions
- Justification
 - o Need for the planning proposal
 - o Relationship to strategic planning framework
 - o Environmental, social and economic impact
 - o State and Commonwealth interests
- Mapping
- Community consultation
- Project timeline

These matters are addressed in Sections 4 and 5 of this report.

4.3 VISION AND INTENDED OUTCOMES

To illustrate the vision of the Beach Road Planning Proposal, JMD Development Consultants prepared a subdivision plan. The plan had regard to the environmental constraints of the subject property and was informed by technical inputs from the consultants listed above in **Table 2**.

4.4 RELATIONSHIP OF THE BEACH ROAD PROPOSAL TO SHOALHAVEN LEP 2014

This section describes how the Beach Road Planning Proposal relates to the relevant existing use zone objectives in Shoalhaven LEP 2014.

4.4.1 PROPOSED LAND USE ZONING

The Beach Road Planning Proposal seeks to rezone the land from RU1 – Primary Production and E2 Environmental Conservation to R5 (Large Lot Residential) and E1 – National Parks and Nature Reserves.

Outcomes

In delivering the forgoing objectives, it is intended that the following outcomes be realised:

- Elements of the natural landscape will be conserved by the proposed subdivision size and commensurate with adjoining lands, with the Coomonderry Swamp being controlled by the National Parks and Wildlife Service.
- A framework will be established for more detailed planning, if required by the Gateway Determination.
- Existing physical and human infrastructure will be utilised having regard to the lands being serviced with reticulated water and other services.

- The subdivision of the land in a way that sensitively interfaces with surrounding development and preserves the Coomonderry Swamp for public purposes.
- Achievement of a sustainable and coordinated extension of adjoining lands.
- Conservation and enhancement of the Coomonderry Swamp.
- Enhancement of the water quality of the nearby river system through the provision of sustainable systems having regard to the Water Sensitive Urban Development (WSUD) principles that underpin an integrated Total Water Cycle Management Strategy.

Such zoning is commensurate with the lands immediately adjoining the subject land to the east and west.

The Shoalhaven LEP 2014 will adopt the zones applicable under the Standard Instrument LEP. It is proposed that part of the property be rezoned to part R5 – Large Lot Residential and E1 – National Parks and Nature Reserves.

The following LEP Maps apply to the site and are also intended to continue to apply:

- Terrestrial Biodiversity Map;
- Riparian Lands and Watercourses Map; and
- Heights of Building Map.

4.4.2 PROPOSED CHANGES TO MAPS

The Planning Proposal seeks to amend the following maps:

- Amend Shoalhaven LEP 2014 to rezone the subject land to Part R5 – Large Lot Residential and Part E1 – National Parks and Nature Reserves – 6950_COM_LZN_018E_080 and 6950_COM_LZN_019_080;
- Amend Shoalhaven LEP 2014 the Lot Size Map – 6950_COM_LSZ_019_080 – 4000m² (W2) to 2ha minimum (Z1);

5 Justification

5.3.1 NEED FOR THE PLANNING PROPOSAL

5.3.2 IS THE PLANNING PROPOSAL A RESULT OF ANY STRATEGIC STUDY OR REPORT

5.3.2.1 BACKGROUND

The subject land was considered for rezoning with the adjoining lands to the east and west for a number of years (circa 1983). On 2 November 1999 a report submitted to the Council stated that the rezoning of the land should be dealt with separately from the recently gazetted draft Rural Plan as agreed by the then Department of Urban Affairs and Planning (DUAP), now Department of Planning and Environment.

In the preparation of the draft Coolangatta/Harley Hill LEP in 1988, Council formulated a principle whereby lands not within the wetland would be rezoned Rural 1(c2) as an incentive to landowners to dedicate approximately 500ha of swamp area to the public. Consultants, Mitchell McCotter looked at the effects of the implementation of the zone on the swamp. The study concluded that rural residential landuse would be acceptable from an environmental perspective provided certain environmental controls were put in place.

In August 1994, Morse McVey & Associates undertook a land capability assessment of the three properties. The assessment carried out showed that the land was capable of being developed for rural residential development.

Considerable consultation with the DUAP, EPA, Council, NPWS and other authorities took place over the ensuing years. In about 1995, the owner of the subject land advised Council that (he) did not want to be part of the rezoning process and accordingly Council proceeded with the rezoning of the adjoining lands for rural residential purposes. These lands have been subsequently subdivided and developed with housing.

In recent times, several preliminary studies have been undertaken to inform the proposed Planning Proposal (refer to **Table 1** above). These preliminary studies are addressed below.

The Planning Proposal will adopt the local provisions to the Standard Instrument Local Environmental Plan (SI LEP) to minimise the likely environmental impacts of future development. In this regard, it is proposed to adopt the provisions within LEP 2014 in respect of minimum lot size for the R5 zone. In respect of the heights of buildings and other relevant maps, these will also be adopted. The following addresses the preliminary studies that have been undertaken to date to inform the Planning Proposal.

5.3.3 SITE CONTAMINATION

Strategic Environmental and Engineering Consulting (SEEC) have been commissioned to prepare this Stage 1 Preliminary Contamination Assessment. It is required to accompany an application to rezone the land to permit residential development (**Annexure C**). The assessment was required based on the past agricultural use of the land for a dairy farm.

The site has an existing homestead and various outbuildings including a garage and two machinery sheds and the former dairy. Next to the western most machinery shed is an above-ground diesel tank below which is located an older underground diesel tank. This area, and the land immediately downslope of it, is identified as potentially contaminated and further investigation is warranted. If hydrocarbons exist in excess of the recommended concentrations this land will need remediation before it can be zoned residential. The entrance of the machinery sheds and, if it were to be removed, the footprint of the existing house should also be investigated further as there could be chemical residue and/or hydrocarbon residue.

Further soil investigation (a Stage 2 Assessment) is required at the locations identified in Section 7.2.3 of the SEEC report to determine the level and extent of any potential contamination. The investigation must be carried out by a qualified consultant with access to suitable sampling/measuring equipment and soil testing must be carried out by a NATA registered laboratory.

However, although further investigation is warranted, the spatial distribution of any potential contamination is not expected to be large and it is expected a remedial action plan could be successfully implemented. After remediation (if it were required) the land would be validated to ensure it was suitable for residential development. The presence of possible contamination in the localised areas identified does not preclude rezoning.

5.3.4 WATER CYCLE MANAGEMENT

SEEC was commissioned to prepare a Water Cycle Management Study (WCMS) (**Annexure D**).

The WCMS included:

- An investigation into the existing water cycle;
- An assessment of how the proposed development might affect the management of the water cycle; and
- A conceptual plan for managing the water cycle to achieve a neutral or beneficial effect (NorBE) on the quality of the water leaving the site.

5.3.4.1 ONSITE WASTEWATER

The site will not be connected to sewer and so wastewater generated in each new home would be managed on each lot. Many of the lots would be unconstrained for wastewater management and the soils across the site are reasonably well suited to disposal of secondary treated effluent by either irrigation or absorption. However, required buffers to various drainage features would constrain some lots:

- Some lots would be located adjacent to a north-south orientated access road which would follow the alignment of the former depression. Here a 40 m buffer would be required between any future Effluent Management Area and the new table drains;
- Some lots would be constrained by the east-west access roads' upslope table drains. A 40 m buffer would be required;
- Conceptual Lots 45 and 46 would be constrained by low lying, periodically saturated land and the presence of a drainage line which passes under Beach Road via a culvert. A 100 m buffer is recommended between any future Effluent Management Area and that culvert.

5.3.4.2 STORMWATER QUALITY MODELLING

The estimated Pre and post development sediment and pollutant loads are modelled using MUSIC (Model for Urban Stormwater Improvement Conceptualisation), developed by eWater. The model is appropriately calibrated as in **Tables 4, 5 and 6** of the SEEC report and quantifies:

- The levels of the principal pollutants before and after development; and
- Changes in export levels because the development is there.

5.3.4.3 MODELLING RESULTS

Mean Annual Loads

Two models were run to represent pre and post development. The models were both split into those lands that drain to Coomonderry Swamp and lands that drain to Beach Road. **Tables 8 and 9** of the SEEC **report** contain the results of the modelling respectively. They show the proposed development would improve the existing mean annual loads of sediment and nutrients in water draining in both directions. The improvement is particularly good on lands that drain to Coomonderry Swamp.

Pollutant Concentrations

To fully demonstrate a neutral or beneficial effect (NorBE), the post-development pollutant concentrations for total suspended solids, phosphorous and nitrogen should be less than or equal to the pre-development concentrations for between 98 percent and 50 percent of the time (SCA, 2012).

For lands that drain to Coomonderry Swamp, **Figures 10 to 12** show the concentration graphs for suspended solids, total phosphorous and total nitrogen respectively and show this condition can be met. **Figures 13 to 15** show the same for lands that drain to Beach Road.

5.3.4.4 CONCLUSION

It is proposed to subdivide Lot 4 DP 713138 into 46 new rural-residential lots of between 0.4 ha and 3.3 ha. Lot 40 would contain the existing house and associated outbuildings.

Each new lot would be required to sustainably manage treated wastewater derived in each new home. It is calculated that 830 m² of subsurface irrigation would be required on each lot based on a five-bedroom home.

The northern part of the site contains lands that currently drain to the north via a drainage depression which feeds two farm dams. The two dams would be removed and one of the new north-south access roads would follow the alignment of the drainage depression. The function of the depression would be replaced by the table drains. The east-west access roads would also have table drains and the one on the upslope side would require a buffer from any effluent management area. This constrains some of the proposed lots but an area of at least 830 m² has been identified on them all. In addition, the northwest corner of the site (conceptual Lots 45 and 46) is characterised by an area of low lying land that is prone to periodic saturation. This low lying land would be avoided for the purpose of wastewater disposal and a 100 m buffer would be provided to the culvert under Beach Road. All other lots would be more or less unconstrained for the purpose of effluent management.

The MUSIC stormwater quality modelling shows the change in land use from agricultural to rural residential would be a benefit to water quality, even with the proposed road network. The large size of each lot (no less than 3,000 m²) means the effective imperviousness area on each would be low, estimated as 5%, CMA (2010). The new access road would be 50% effective impervious but would drain to grass-lined table drains in the same manner as in the similar adjoining subdivision.

The predicted improvement to water quality is particularly good on lands that drain to Coomonderry Swamp. Here an additional benefit would be a 5.7 ha, 110 m wide, conservation zone in which any domestic stock would be prohibited.

5.3.5 ECOLOGICAL CONSTRAINTS

Eco Logical Australia (ELA) was commissioned to undertake an ecological constraints analysis of the subject property (**Annexure E**).

5.3.5.1 ECOLOGICAL RESULTS AND DISCUSSION

Vegetation communities

The fringe of the Coomonderry Swamp to the immediate south east of the site boundary is mapped as Floodplain Swamp Forest, a community included in the Coastal Floodplain Wetlands vegetation class (Keith 2004), which forms a component of the Swamp Oak Floodplain Forest Endangered Ecological Community (EEC) under the TSC Act. The vegetation within Coomonderry Swamp is also mapped as '*Biodiversity – habitat corridor*' and '*Biodiversity – significant vegetation*' under the *Terrestrial Biodiversity Map* of the SLEP 2014.

A portion of the biodiversity layer falls within the site boundary, but outside of the impact area and within the proposed buffer to the swamp.

Within the site boundary, the desktop assessment showed that the majority of the site boundary is cleared of vegetation. The remaining vegetation has been mapped as follows:

- Illawarra Gully Wet Forest, a community included in the North Coast Wet Sclerophyll Forests vegetation class (Keith 2004).
- Illawarra Lowland Swamp Woodland, also referred to as the South Coast Lowland Swamp Woodland (Tozer *et al* 2010), and forms part of the Illawarra Lowlands Grassy Woodland (ILGW) of the Sydney Bioregion, which is listed as Endangered Ecological Community (EEC) under the TSC Act.
- Floodplain Swamp Forest, a community included in the Coastal Floodplain Wetlands vegetation class (Keith 2004), forms a component of the Swamp Oak Floodplain Forest Endangered Ecological Community (EEC) under the TSC Act.
- Coastal Sand Forest, a community included in the South Coast Sands Dry Sclerophyll Forest vegetation class (Keith 2004).

The desktop assessment also showed that the large woodland vegetation patch on south east site boundary is mapped as '*Biodiversity – significant vegetation*' under the *Terrestrial Biodiversity Map* of the SLEP 2014.

Habitat features

Habitat features observed during the site inspection include the following:

- Diverse vegetation types – woodland, grassland, wetland
- Hollow bearing trees and stags
- Fallen trees, logs and other smaller woody debris.

Threatened flora

18 threatened flora species were identified in the desktop search as either previously being recorded nearby or being likely to occur within the site boundary due to the presence of suitable habitat (Appendix A) of report.

No threatened flora species were recorded during the site inspection.

One threatened species is considered to have the potential to occur within the site boundary. *Solanum celatum* has the potential to occur within the large woodland patch of Illawarra Gully Wet Forest and Illawarra Lowland Swamp Woodland on the south east boundary; although this area has a history of grazing, it is floristically diverse.

Threatened fauna

68 threatened (three frogs, one snake, 49 birds, 15 mammals), including 19 migratory bird species, were identified in the desktop searches as either being previously recorded or likely to occur within a 5 km radius of the site boundary (Appendix A).

No threatened fauna species were recorded during the site visit.

However, an assessment of the likely occurrence of each threatened and migratory species identified was undertaken (Appendix A). This assessment involved a process of combining our knowledge of the habitat within the site boundary with the ecology and biology of each species identified within the database searches. This assessment identified nine threatened birds, four migratory birds and seven threatened bats as being likely or having the potential to occur within the site boundary, these species are highlighted within the table in Appendix A. Impacts to these species would require further assessment at the development application stage.

Note: this assessment was not intended to provide an inventory of all species present within the site boundary, but instead provide an overall assessment of the ecological and riparian values of the site boundary with particular emphasis on threatened species, populations, ecological communities and key fauna habitat features. No aquatic assessment has been undertaken as part of this constraints analysis.

Riparian land

The desktop assessment identified a 1st order stream (under the Strahler System) running south-north within the site boundary, associated with two farm dams. An offline farm dam is also located on the opposite and northern side of Beach Road and is within 40 m of the land proposed for rezoning. This stream and the dams are shown on Figure 8 (Eco Logical report).

The desktop assessment also identified that land within Coomonderry Swamp to the south west of the site boundary is mapped as '*Riparian land*' under the *Riparian Lands Map* of the SLEP 2014. A portion of the riparian lands layer falls within the site boundary, but outside of the impact area and within the proposed buffer to the swamp. It is noted that no watercourses are mapped within the site boundary under the SLEP 2004.

The 1st order stream flowing south-north through the property is a tributary of Blue Angle Creek, which flows to Crooked River (Figure 8). Under the WM Act, 1st order streams typically require a vegetated riparian zone to be managed for 10 m either side of the top of the bank of the stream (i.e. a riparian corridor width of 20 m plus the width of the stream channel) per Table 1. However, during the site inspection and evidenced from photographs (Figures 4 to 7), the stream mostly has no defined bed or bank, and, therefore, is unlikely to meet the definition of a river under the WM Act.

The exceptions to this are the erosion gully draining the central dam, and a narrow channel in the road verge leading to a culvert, both which have small banks. The NSW Office of Water (NOW) will be able to advise whether *Waterfront Land* (and riparian corridors) applies to this stream.

5.3.5.2 CONCLUSION

The site boundary area contains a combination of native and derived vegetation communities. One area of high ecological constraint is the large woodland patch on the south east boundary of Illawarra Wet Gully Forest and adjoining Illawarra Lowland Swamp Woodland EEC. This patch comprises an area of 2.99 ha and is floristically diverse despite past disturbance and the presence of weeds. A portion of this patch of vegetation has been mapped as '*Biodiversity – significant vegetation*' under the *Terrestrial Biodiversity Map* of the SLEP 2014. There are a number of hollow bearing trees and stags also considered to have high ecological constraint within this woodland patch and in other parts of the property.

Consideration should be given to the retention of vegetation mapped with moderate constraint, including two patches of Swamp Oak belonging to the Illawarra Lowland Swamp Woodland (EEC) on the southern boundary of the impact site and other native vegetation patches in the north west of the site boundary.

No threatened flora species were observed during the brief site visit; however one species, *Solanum celatum* has the potential to occur within the site boundary.

No threatened fauna were observed within the brief site visit, however, based on habitat features, including hollow bearing trees, the land within the site boundary contains likely or potential habitat for nine threatened birds, four migratory birds and seven threatened bats. Further assessment for potential impacts to these species would be required at the development application stage.

The site boundary contains a 1st order stream which is a tributary of Blue Angle Creek. The stream mostly has no defined bed or bank, and therefore, is unlikely to meet the definition of a river under the WM Act. The exceptions to this are the erosion gully draining the central dam, and a narrow channel in the road verge leading to a culvert, both which have small banks. The NSW Office of Water (NOW) will be able to advise whether *Waterfront Land* (and riparian corridors) applies to this stream and whether a riparian corridor buffer would be required to buffer the dam located outside the site boundary to the north and on the opposite side of Beach Road.

5.3.6 AGRICULTURAL ASSESSMENT

Eco Logical Australia (ELA) was commissioned to undertake a preliminary agricultural assessment of the subject property (**Annexure F**) to address in particular the Section 117 Directions relating to loss of agricultural land. The following addresses this aspect of the proposal.

The issues identified within the NSW Department of Primary Industries (DPI) *Policy 0-104 Maintaining Land for Agricultural Industries* and *The Farm Subdivision Assessment Guideline* have been used to guide the review of the proposed rezoning against the objectives of each Ministerial Direction. These issues include:

- Land use conflicts and rural land fragmentation
- Protection of natural resources
- Impact of non-agricultural developments on agricultural business and infrastructure
- Impact upon long term social and economic costs and benefits
- Long-term sustainability

Land use conflicts and fragmentation

The site is surrounded on both the eastern and western sides by properties that have been previously rezoned, subdivided and developed for rural residential purposes. Large lot residential development of the site will therefore not create landuse conflict with adjoining landholdings. Nor will it further fragment rural lands as the site is essentially an infill of rural residential development.

Protection of natural resources

Rezoning of the site complements the surrounding land uses of rural residential and the Coomonderry Swamp, and ensures that the growing rural residential nature of housing in the Shoalhaven LGA continues to occur (Shoalhaven City Council, n.d.; Michael Brown Planning Strategies, 2015). The natural resource values of the Coomonderry Swamp will not be directly impacted by the large lot residential development. Protection of natural resources will be achieved through the proposed rezoning of the Coomonderry Swamp to E1 – National Parks and Nature Reserves. The remainder of the lands within the site have been previously cleared for agricultural purposes, however a number of vegetation patches remain or are regenerating. Ecological and riparian constraints are provided by ELA within a separate assessment.

A small portion of the site has been mapped as Biophysical Strategic Agricultural Land (BSAL) which is defined as “land with high quality soil and water resources capable of sustaining high levels of productivity” (NSW Department of Planning and Environment, 2015). The area identified as BSAL consists of two small areas alongside Beach Road (*Strategic Agricultural Land Map – Sheet STA_042 of Mining SEPP*). While these two areas are located on the site, the vast expanse of the BSAL is located to the north and is fragmented by Beach Road.

Impact of non-agricultural developments on agricultural business and infrastructure and social / economic benefits and costs

The population within the Shoalhaven LGA is predicted to continue to grow by approximately 22% by 2036 (forecast.id, n.d.). Given this population growth, there has been an increase in demand for residential developments, and in particular for rural residential lots (Michael Brown Planning Strategies, 2015). In order to ensure the long term sustainability of the region, development of this land will ensure that housing is available for the residents that are relocating to the region.

Growth of industries other than agriculture has occurred within the Shoalhaven LGA, showing that the region is becoming less reliant upon agriculture to contribute to economic growth and development. A number of industries such as manufacturing, retail, public administration and safety have shown strong growth in recent years (Regional Development Australia, 2012). Agriculture contributes approximately \$40 million to the Shoalhaven economy, while Manufacturing generates \$450 million annually (Regional Development Australia, 2012). Manufacturing activities would not be affected by a downturn in agriculture within the Shoalhaven LGA, with activities focussing upon manufacture of paper, chemicals, yachts and clothing.

Approximately 43% (1960 ha) of the land within the Shoalhaven LGA is used for agricultural purposes (profile.id, n.d.). Given the dominance of agriculture as a land use within the Shoalhaven LGA, rezoning of the site (approximately 54.3 ha) of land for rural residential uses is unlikely to impact upon the agricultural industry as the site does not cover a large area. In addition to this, the dairy infrastructure that is present on site is currently not in use. Loss of this infrastructure through the proposed rezoning will not impact upon the dairy industry as this infrastructure has not contributed to the industry for a number of years.

Long term sustainability

The site has suitable soils for grazing, however the small size of the site is such that it is unlikely to ever provide a significant economically viable agricultural enterprise.

5.3.7 CONCLUSIONS

This assessment has shown that the Planning Proposal would not result in a significant loss of Biophysically Strategic Agricultural Land (BSAL), nor would it lead to land use conflicts with neighbouring properties as those properties have already been developed as large lot developments.

Given the dominance of the agricultural industry within the Shoalhaven LGA and the growth of new industries within the region, rezoning of the site is not expected to have an impact upon the agricultural production value of rural land or BSAL. The land subject to this assessment is currently not operating as a working dairy and land suitable for cattle grazing is plentiful in the local area. Therefore, loss of this land to rural residential purposes will not result in an impact to the agricultural industry.

Rezoning will allow further economic growth and improvement of environmental values within the region through provision of housing for new residents to the region, creation of new jobs and protection of environmental resources through proposed dedication of the Coomonderry Swamp for environmental protection. The proposed rezoning complements the existing developments in surrounding areas thus contributing to the orderly development of rural lands.

5.3.8 BUSHFIRE ASSESSMENT

Eco Logical Australia (ELA) was commissioned to undertake a preliminary bushfire assessment of the subject property (**Annexure G**). The following provides details of the assessment.

5.3.8.1 DISCUSSION

Two constraints were identified which included APZ dimensions and access requirements, in particular the requirement of a perimeter road.

It is evident in Table 1 of the potential impacts of proposed revegetation of the Coomonderry Swamp buffer on APZ widths and BAL determination; this should be a consideration for both the rezoning design and revegetation planning. There is also a link between increasing the bushfire hazard in the vegetation area and increasing the likelihood of a perimeter road along this interface.

There are two access scenarios that could apply to this site based on the constraint of revegetation within the buffer area as previously identified. If the buffer area is retained as grazed grassland, a strong argument can be put forward that a perimeter road is not required and a fire trail would meet PBP performance criteria. This is based on the nature of the interface, the swamp vegetation and surrounding open land.

However, this will require negotiation and detailed justification to both Council and RFS. If this area is revegetated, and thus consists of bushfire prone vegetation, then there is the increased potential for RFS and Council to request a perimeter road. It is recommended negotiation with Council and RFS on this matter is undertaken prior to the finalisation of any rezoning plans.

Another opportunity to consider in the rezoning design, as the bushfire hazard vegetation is located along the entire south west boundary and a large woodland patch along the south east boundary, is to incorporate perimeter access and APZs along these two areas.

5.3.8.2 CONCLUSION

To move forward with the proposed rezoning, it is recommended that this advice be incorporated into the rezoning application and rezoning design to minimise any future issues within the approval process.

5.3.9 IS THE PLANNING PROPOSAL THE BEST MEANS OF ACHIEVING THE OBJECTIVES OR INTENDED OUTCOMES, OR IS THERE A BETTER WAY?

The current zoning permits rural activities. The proposed rezoning importantly can be stylised as an amendment to Shoalhaven LEP 2014, notably adopting relevant zoning, minimum lot size and maximum height of building provisions, etc.

This represents the most logical way of achieving the intended objectives and outcomes under the prevailing legislation to amend the zoning of the land. Overall, the proposal will provide a net community benefit for the following reasons:

- It constitutes a balanced and appropriate use of land and is in keeping with the emerging rural residential character for housing in the Shoalhaven LGA.
- The proposal results in the Coomonderry Swamp being brought within public ownership as the swamp has been identified as a SEPP 14 Wetland.
- Shoalhaven has been sought for housing due to the closeness to Sydney and other regional centres, as detailed in this report.
- The proposal will provide housing choice and lifestyle to meet the needs of the community.
- The proposal will not result in any significant adverse environmental impacts.

This is consistent with a number of Strategies discussed below.

5.3.10 HOW HAS THE PLANNING ADEQUATELY ADDRESSED ANY SOCIAL AND ECONOMIC EFFECTS?

The PP has addressed the current land supply limitations and move toward fulfilling the accommodation needs attached to the subregional population and housing projections.

The proposal has positive social and economic contributions as discussed above in the various Strategies by providing much needed housing choice in the LGA.

Indeed, under the proposed scenario, no adverse social and/or economic impacts are foreshadowed, but rather positive impacts will accrue in this regard.

5.3.11 IS THE PLANNING PROPOSAL CONSISTENT WITH APPLICABLE STATE ENVIRONMENTAL PLANNING POLICIES?

The lands are subject to the provisions of a raft of State Environmental Planning Policies. The subject policies are noted below in **Table 3** and importantly do not prohibit and/or significantly constrain the Planning Proposal.

TABLE 3 – APPLICABLE STATE POLICIES

SEPP	Comment
State Environmental Planning Policy No 1 – Development Standards	Not inconsistent.

SEPP	Comment
State Environmental Planning Policy No 4 – Development without Consent and Miscellaneous Exempt and Complying Development	Not inconsistent.
State Environmental Planning Policy No 6 – Number of Storeys in a Building	Not inconsistent (Maximum building height will be subject to maximum height expressed in metres).
State Environmental Planning Policy No 14 – Coastal Wetlands	Consistent, as it will provide for that part of the land to be included within the Coomonderry Swamp. Certain studies will need to be undertaken to ensure that the development does not impact on this Swamp.
State Environmental Planning Policy No 15 – Rural Landsharing Communities	Not applicable (Shoalhaven is not included in the land applicable schedule).
State Environmental Planning Policy No 19 – Bushland in Urban Areas	Not inconsistent.
State Environmental Planning Policy No 21 – Caravan Parks	Not inconsistent.
State Environmental Planning Policy No 30 – Intensive Agriculture	Not inconsistent.
State Environmental Planning Policy No 36 – Manufactured Home Estates	Not inconsistent.
State Environmental Planning Policy No 44 – Koala Habitat Protection	Not inconsistent.
State Environmental Planning Policy No 52 – Farm Dams and Other Works in Land and Water Management Plan areas	Not applicable.
State Environmental Planning Policy No 55 – Remediation of Land	Applicable.
State Environmental Planning Policy No 60 – Exempt and Complying Development	Limited application.
State Environmental Planning Policy No 62 – Sustainable Aquaculture	Not inconsistent.
State Environmental Planning Policy No 70 – Affordable Housing (revised schemes)	Not inconsistent.
State Environmental Planning Policy No 71 – Coastal Protection	Not inconsistent. The objectives of the SEPP will be considered in the detailed technical studies as part of the Gateway Determination.
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Not inconsistent (The relevant principles will inform building design).
State Environmental Planning Policy (Exempt and Complying Codes) 2008	Not inconsistent.
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	Not inconsistent. Seniors housing is not permitted in the proposed R5 zone.

SEPP	Comment
State Environmental Planning Policy (Infrastructure) 2007	Not inconsistent.
State Environmental Planning Policy (Major Development) 2005	Not inconsistent.
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	Not inconsistent.
State Environmental Planning Policy (Rural Lands) 2008	Not inconsistent.

5.3.12 IS THE PLANNING CONSISTENT WITH APPLICABLE MINISTERIAL DIRECTIONS (S 117 DIRECTIONS)?

The planning proposal is consistent with the applicable Ministerial Directions (s.117 Directions) see **Table 4** below.

TABLE 4 – CONSIDERATION OF MINISTERIAL DIRECTIONS

s.117 Direction Title	Applicable	Consistent	Comments
1. Employment & Resources			
1.2 Rural Zones	Y	The objective of this direction is to protect the agricultural production value of rural land. 1.2 (4) (a) states a Planning Proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. 1.2 (4) (b) states a Planning Proposal must not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).	Direction 1.2 applies to planning proposals which affect land within an existing or proposed rural zone and states that a Planning Proposal must not rezone land from a rural zone to a residential zone. The inconsistency is justified in this instance as the site has been considered for rural residential purposes in the past, when the adjoining lands were rezoned. The PP reflects the zoning of the adjoining lands.
1.5. Rural lands	N/A	N	The social and environmental benefits associated with rezoning the lands for rural residential landuses, such as additional housing choice and opportunities. Refer to Annexure F regarding loss of agricultural land.

s.117 Direction Title	Applicable	Consistent	Comments
2. Environment & Heritage			
2.1 Environment Protection Zones	Y	Y	Refer to comments above about the rural zones.
3. Housing Infrastructure & Urban Development			
3.1 Residential Zones	Y	The objectives of this direction are: - to encourage a variety and choice of housing types to provide for existing and future housing needs, - to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and - to minimise the impact of residential development on the environment and resource lands. 3.1 (5) (b) states a Planning Proposal must not contain provisions which will reduce the permissible residential density of land.	It is proposed to rezone land from rural to permit the development of part of the land for rural residential purposes, with the remainder to be part of the Coomonderry Swamp.
3.3 Home Occupations	Y	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	Y
3.4 Integrating Land Use & Transport	Y	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: improving access to housing, jobs and services by walking, cycling and public	The land is not located close to existing transport networks. However, it is within a transport road network.

s.117 Direction Title	Applicable	Consistent	Comments
		transport, - increasing the choice of available transport and reducing dependence on cars, - reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, - supporting the efficient and viable operation of public transport services, and - providing for the efficient movement of freight.	
4.Hazard & Risk			
4.1 Acid Sulphate Soils	Y		Subject land not identified as being subject to acid soils.
4.2 Mine Subsidence and Unstable land	Y	N/A	The subject lands are not within a Mines Subsidence District.
4.3 Flood Prone Land	N/A	The objectives of this direction are: - to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and - to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	Land is not flood prone. Land elevated within the topography.

s.117 Direction Title	Applicable	Consistent	Comments
		4.3 (5) states a Planning Proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.	
4.4 Planning for Bush Fire Protection	Y	The objectives of this direction are: - to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and - to encourage sound management of bush fire prone areas.	Bushfire aspects to be considered during detailed planning stage.
6. Local Plan Making			
6.1 Approval and Referral Requirements	Y	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Yes
6.3 Site Specific Provisions	N	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls. 6.3 (4) (c) states a Planning Proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either: allow that land use to be carried out in the zone the land is situated on, or	It is not proposed to introduce controls for these lands.

s.117 Direction Title	Applicable	Consistent	Comments
		• rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or • allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.	
7. Metropolitan Planning			
Implementation of the Metropolitan Strategy	Y	The objective of this direction is to give legal effect to the vision, transport and land use strategy, policies, outcomes and actions contained in the Metropolitan Plan for Sydney 2036. (Please note: The State Government has exhibited a Draft Metropolitan Strategy for Sydney to 2031 for community input).	Yes

5.3.13 IS THERE ADEQUATE PUBLIC INFRASTRUCTURE FOR THE PLANNING PROPOSAL?

Public infrastructure will be required to be augmented to support the development of the subject land as communicated in this PP. The nature and extent of augmentation will be finally determined having regard to more detailed investigations as part of the continued “evolution” of this PP. As a minimum, the existing reticulated water and sewerage systems in the area will need to be extended to the proposed lots.

The nature of the land is such that a stormwater management plan predicated upon the principles of Water Sensitive Urban Design can be readily designed and implemented as part of the envisaged development scheme to protect the Coomonderry Swamp and in compliance with SEPP 14 – Coastal Wetlands.

Reticulated electricity and telecommunications facilities will also be provided as service infrastructure.

Amplification/enhancement of offsite infrastructure, including community infrastructure, will involve relevant contributions pursuant to Section 94 (EP&A Act). Such contributions will be determined in response to more detailed planning actions as the PP progresses. There will also be a need for a legal mechanism to be in place regarding the Coomonderry Swamp.

6 Conclusion

The preceding commentary has clearly established a case for the limited review the planning provisions as they pertain to the subject lands. It is proposed that the subject lands be zoned R5 – Large Lot Residential and E1 – National Parks and Nature Reserves from the SI LEP.

SINCERELY YOURS,

A handwritten signature in black ink, appearing to read 'M J Brown', is positioned above the printed name.

M J BROWN
DIRECTOR
MICHAEL BROWN PLANNING STRATEGIES PTY LTD

Annexure “A”
Concept Subdivision Plan

Annexure “B”
Letter from OEH (NP&WS)

Annexure “C”
Stage 1 Contamination Assessment

Annexure “D” Water Cycle Management

Annexure “E” Ecological Constraints Assessment

Annexure “F”
Preliminary Agricultural Assessment

Annexure “G” Bushfire Assessment

Annexure “H”
Pre-lodgement Letter from Council